

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 14-1682 FMO (JCx)	Date	April 14, 2014
Title	Vape Holdings, Inc. v. Stone Arch Studio LLC, <u>et al.</u>		

Present: The Honorable	Fernando M. Olguin, United States District Judge	
Vanessa Figueroa	None	
Deputy Clerk	Court Reporter / Recorder	Tape No.
Attorney Present for Plaintiff(s):	Attorney Present for Defendant(s):	
None Present	None Present	

Proceedings: (In Chambers) Order to Show Cause Re: Dismissal

On March 7, 2014, plaintiff filed a Complaint in this court. However, the jurisdictional allegations appear to be defective. Jurisdiction is asserted on the basis of diversity jurisdiction. (Complaint at ¶ 1); see 28 U.S.C. § 1332(a). Plaintiff alleges that the amount in controversy is in excess of \$75,000, (see Complaint ¶1), and that the amount of damages with respect to economic losses exceeds \$1,000,000. (See id. at ¶¶ 35, 40 & 50). However, plaintiff sent the prospective contract that is the subject of this action to defendant on January 21, 2014. (See id., Exh. H at 1). On February 4, 2014, defendant sent a letter advising plaintiff that no contract had been formed. (See id., Exh. I). The court has doubts as to whether the amount of damages plaintiff allegedly suffered, i.e., \$1,000,000, (see id. at ¶¶ 35, 40 & 50), are sufficient to satisfy the amount in controversy in that it is extremely unlikely that plaintiff could have sustained such damages during the two weeks before plaintiff was notified of defendants' position. "It is plaintiff's burden both to allege with sufficient particularity the facts creating jurisdiction, in view of the nature of the right asserted, and if appropriately challenged, or if inquiry be made by the court of its own motion, to support the allegation." St. Paul Mercury Indem. Co. v. Red Cab Co., 303 U.S. 283, 288 n. 10, 58 S.Ct. 586, 589 (1938); Rasidescu v. Midland Credit Mgmt., Inc., 435 F. Supp. 2d 1090, 1095 (S.D. Cal. 2006).

Accordingly, IT IS ORDERED that:

1. No later than **April 21, 2014**, plaintiff shall show cause in writing why this action should not be dismissed for the reasons noted above. The filing of a First Amended Complaint setting forth sufficient jurisdictional allegations shall be a sufficient response to the OSC. Failure to submit a response by the deadline set forth above may be deemed as consent to the dismissal of the action without prejudice. Defendants may submit a response in the same time period.

2. A copy of all papers filed with the court shall be delivered to the drop box outside chambers at Suite 520, Spring Street Courthouse, 312 North Spring Street, **no later than 12:00 noon the following business day**. All chambers copies shall comply fully with the document formatting requirements of Local Rule 11-3, including the "backing" requirements of Local Rule

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 14-1682 FMO (JCx)	Date	April 14, 2014
Title	Vape Holdings, Inc. v. Stone Arch Studio LLC, <u>et al.</u>		

11-3.5. Counsel may be subject to sanctions for failure to deliver a mandatory chambers copy in full compliance with this Order and Local Rule 11-3.

	00	:	00
Initials of Preparer	vdr		